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March 27, 2012

***Via Email***

[cohn.matthew@epa.gov](mailto:cohn.matthew@epa.gov)

Matthew Cohn  
Director  
Legal Enforcement Program  
Office of Enforcement, Compliance and Environmental Justice  
US EPA Region 8  
1595 Wynkoop Street  
Denver, CO 80202-1129

Re: Freedom of Information Act ("FOIA") Request  
Consolidated Number 08-FOI-00114-12

Dear Mr. Cohn:

This letter is written on behalf of Encana Oil & Gas (USA) Inc. ("Encana") in further response to letters, dated February 16 and March 12, 2012, from the U.S. Environmental Protection Agency ("EPA") regarding the EPA draft report titled "Investigation of Ground Water Contamination near Pavillion, Wyoming" (the "Draft Report"). It also responds to statements made by EPA in telephone conversations last week concerning these letters and TWH's March 15, 2012 letter to EPA.

EPA has declined to identify the scope or extent of the records that would be responsive to our December 2011 FOIA request and that are beyond the scope of the record requests made by others, including Members of Congress, Governor Mead, and others. However, EPA has provided repeated assurances that in response to these many requests it will publicly post all data that EPA had at the time it released the Draft Report, publicly post on its website answers to the four-pages of questions submitted by Wyoming, and provide all communications between Region 8 and ORD and between ORD and EPA Headquarters. EPA has confirmed that the costs of providing those records will not be charged to Encana because these costs are being incurred regardless of our FOIA request.

We are writing to confirm that Encana has made the payment of \$114,360 which is EPA's estimate of the cost for responding to our FOIA request. Given EPA's assurances that it

*Exh 3-3/27/2012 letter to EPA*

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will not charge Encana for any of the costs for posting or providing the documents that others have requested, Encana has made the required payment, under protest. Further, Encana will seek to recover all or part of its payment after EPA completes its response to Encana's FOIA and provides documentation of the actual costs and the detail from which Encana can determine whether in fact those costs are solely related to Encana's FOIA request. Encana continues to believe that all of the requested records fall within the public interest provisions and should be made available to the public without charge.

Encana believes that EPA's unwillingness to meet in person to discuss all three connected document issues discussed our March 15, 2012 letter to EPA is unfortunate. TWH is pursuing and is not withdrawing its FOIA request. Encana issued a check for \$114,360, which I just gave to Michelle Marcu with the original of this letter.

Very truly yours,



Linnea Brown

LNB:lf

cc: Michelle Marcu, Enforcement Attorney, US EPA Region 8